



**Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, SW, Suite 4-C330
Washington, D.C. 20554**

June 17, 2009

DA 09-1345

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND E-MAIL (edwishnow@aol.com) AND FACSIMILE (248) 258-6007

Mr. Douglas A. Benit
c/o Edward C. Wishnow
240 Daines
Birmingham, MI 48009

**Re: Notice of Suspension and Initiation of Debarment Proceedings,
File No. EB-09-IH-0402**

Dear Mr. Benit:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction of mail fraud, in violation of 18 U.S.C. §§ 2, 1341, and 1346 in connection with your participation in the schools and libraries universal service support mechanism ("E-Rate program").¹ Consequently, pursuant to 47 C.F.R. § 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau ("Bureau") hereby notifies you that we are commencing debarment proceedings against you.²

¹ Any further reference in this letter to "your conviction" refers to your guilty plea and subsequent conviction of one count of mail fraud. *United States v. Douglas A. Benit*, Criminal Docket No. 2:06CR20285-1, Plea Agreement (D. Mich. filed Nov. 24, 2008 and entered Nov. 25, 2008) ("*Douglas Benit Plea Agreement*"); *United States v. Douglas A. Benit*, Criminal Docket No. 2:06CR20285-1, Judgment (D. Mich. filed Mar. 31, 2009 and entered Apr. 1, 2009) ("*Douglas Benit Judgment*"). See also *United States v. Douglas A. Benit*, Criminal Docket No. 2:06CR20285, Indictment (D. Mich. filed May 24, 2006 and entered May 25, 2006) ("*Benit Indictment*"). You also plead guilty to one count of bank fraud, in violation of 18 U.S.C. §§ 2 and 1344. See *Douglas Benit Plea Agreement*; see also *Douglas Benit Judgment*. This notice of suspension and initiation of debarment proceedings arises from your conviction of mail fraud, and as such, does not discuss your guilty plea and subsequent conviction of bank fraud.

² 47 C.F.R. § 54.8; 47 C.F.R. § 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) ("*Second Report and Order*") (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, Report and Order, 22 FCC Rcd 16372, 16410-12 (2007)

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I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism” from receiving the benefits associated with that program.³ On November 24, 2008, you, Douglas A. Benit,⁴ plead guilty to mail fraud in connection with your participation in the E-Rate program.⁵ Specifically, you were employed as a school official in the Ecorse Public Schools District (“EPS” or “District”) from 1997 to 2003, serving first as the Director of Facility Development and subsequently as the Assistant Superintendent.⁶ While employed at EPS, you were also an owner, employee, agent or subcontractor of Coral Technology, Inc. (“Coral”).⁷ During your tenure at EPS, you were responsible for approving the construction of new facilities in the District using funds from several sources, including the E-Rate program.⁸ You admitted that while employed at EPS and while concealing your associations with Coral from EPS, you and others devised a scheme to defraud the District and the E-Rate program by steering contracts for EPS to various companies that directly or indirectly benefited you and your companies, primarily Coral.⁹ In furtherance of the scheme, you submitted to the Universal Service Administrative Company (“USAC”) documents supporting Coral’s application for federal E-Rate funding, while employed at EPS and within the scope of your official responsibilities.¹⁰ As a result of these contracts, which were paid in part from the E-Rate program, you and your company personally benefited from the fraudulent scheme by at least \$2.276 million.¹¹

On March 31, 2009, you were sentenced to serve forty-six months in federal prison, to be followed by thirty-six months of supervised release for your role in the scheme to defraud EPS and the E-Rate program. You were also ordered to pay \$1.34 million in restitution for your role in the scheme.¹²

(*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

³ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.” 47 C.F.R. § 54.8(a)(6).

⁴ Also known as J.D. Howen, D.J. Howen, and Jack Howen. See *Douglas Benit Indictment*.

⁵ See *supra* note 1. See *Douglas Benit Plea Agreement*. See also Department of Justice Press Release (Mar. 26, 2009), available at http://www.usdoj.gov/criminal/nptf/pr/press_releases/2009/mar/03-26-09benit-sentenced.pdf (*DOJ March 2009 Press Release*). See also *Benit Indictment* at 18 (Count 4).

⁶ *Benit Indictment* at 1-4; see also *Douglas Benit Plea Agreement* at 2-3.

⁷ See *Benit Indictment* at 3.

⁸ *Id.*

⁹ *Id.* at 1-15, 18; see also *Douglas Benit Plea Agreement* at 2-3.

¹⁰ *Benit Indictment* at 10-14.

¹¹ See *Douglas Benit Plea Agreement* at 3.

¹² See *Douglas Benit Judgment* at 1, 5 (ordering \$1.34 million for your role in the schemes; \$489,702 in restitution to the Ecorse Public Schools and \$853,000 to USAC); see also *DOJ March 2009 Press Release* at 1.

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Pursuant to section 54.8(a)(4) of the Commission's rules,¹³ your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.¹⁴ Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register.¹⁵

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the Federal Register, whichever comes first.¹⁶ Such requests, however, will not ordinarily be granted.¹⁷ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.¹⁸ Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.¹⁹

II. Initiation of Debarment Proceedings

Your guilty plea to criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.²⁰ Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the Federal Register.²¹ Absent extraordinary

¹³ 47 C.F.R. § 54.8(a)(4). See *Second Report and Order*, 18 FCC Rcd at 9225-27, ¶¶ 67-74.

¹⁴ 47 C.F.R. § 54.8(a)(1)(d).

¹⁵ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.8(e)(1).

¹⁶ 47 C.F.R. § 54.8(e)(4).

¹⁷ *Id.*

¹⁸ 47 C.F.R. § 54.8(e)(5).

¹⁹ See *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.8(e)(5),(f).

²⁰ "Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism." 47 C.F.R. § 54.8(c). Such activities "include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanism." 47 C.F.R. § 54.8(a)(1).

²¹ See *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.8(e)(3).

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circumstances, the Bureau will debar you.²² Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.²³ If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the Federal Register.²⁴

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.²⁵ The Bureau may, if necessary to protect the public interest, extend the debarment period.²⁶

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002, to the attention of Rebekah Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Michele Berlove, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Rebekah Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, DC, 20554, with a copy to Michele Berlove, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, DC, 20554. You shall also transmit a copy of the response via email to Rebekah.Bina@fcc.gov and to Michele.Berlove@fcc.gov.

²² *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

²³ *See id.*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.8(e)(5).

²⁴ 47 C.F.R. § 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 C.F.R. § 54.8(f).

²⁵ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. § 54.8(d),(g).

²⁶ 47 C.F.R. § 54.8(g).

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If you have any questions, please contact Ms. Bina via mail, by telephone at (202) 418-7931 or by e-mail at Rebekah.Bina@fcc.gov. If Ms. Bina is unavailable, you may contact Ms. Michele Berlove, Acting Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418-1477 and by e-mail at Michele.Berlove@fcc.gov.

Sincerely yours,

Hillary S. DeNigro
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Taurus N. Ziedas, United States Attorney' Office, Department of Justice (via e-mail)
Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)